

EXHIBIT 4

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.
Nos. 071882-83
073128

Superior Court
Volterra, J

COMMONWEALTH OF MASSACHUSETTS

vs.

SHAWN DRUMGOLD and TERRANCE TAYLOR

APPEARANCES:

Philip T. Beauchesne, Esq., Assistant District
Attorney, on behalf of the Commonwealth.

Steven J. Rappaport, Esq., on behalf of the Defendant
Shawn Drumgold.

Robert George, Esq., on behalf of the Defendant,
Terrance Taylor.

Suffolk Superior Courthouse
Boston, Massachusetts
Friday, March 3, 1989

MOTION TO DISMISS

VOLUME II

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ANN M. DONNELLY
OFFICIAL COURT REPORTER

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
William Celester	3	8	32	
John A. Canavan, III	35	53		
Francis O'Meara	69	78		

E X H I B I T S

<u>No.</u>		<u>For Identification</u>
8	Subpoena (William Celester)	21
9	Murder complaint	66
10	Tape of Shawn Drumgold at Area B	68

(Chalk 2 - Transcript of District Court proceedings -
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P R O C E E D I N G S

MR. BEAUCHESNE: May I proceed, your Honor?

THE COURT: Yes.

MR. BEAUCHESNE: The Commonwealth calls Deputy Superintendent Celester, please.

WILLIAM CELESTER, Sworn

Direct Examination

BY MR. BEAUCHESNE:

Q Will you identify yourself for the record, sir?

A Deputy Superintendent William Celester, Commander of Area B.

Q Back on August 29, 1988 what was your duty assignment on that day?

A Commander of Area B.

Q At some time were you requested to go to the First Session of the Roxbury District Court?

A Yes, I was.

Q Approximately -- if you can remember, what time approximately did you receive that request?

A I don't know. It was some time in the afternoon.

Q By what means did you receive a request to go to the First Session?

A By telephone.

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Q I presume you walked over there?

A Yes, I did.

Q When you got into the courtroom what -- if anything -- did you do?

A Judge Martin wanted a ranking officer to request of him -- to assure him that if Mr. Drumgold was booked that he'd be back at a certain time.

Q When you went into the courtroom did you go up to the bench?

A Yes, I did.

Q And did you have some conversation with the Judge?

A Yes, I did.

Q Were there any other people involved at that bench conference, in that conversation?

A As I recall, I think Detective Murphy from Homicide. And there was an Assistant DA, I'm pretty sure. I don't know who -- there was a court officer. I don't know -- I don't recollect who was there.

Q Could you help us with the DA's name, if you recall?

A No, I can't.

Q Does the name Canavan ring a bell?

A I really don't remember.

Q But at any event up at the bench there were the three of you, at least for some portion of the

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time?

A Yes.

Q Can you tell us, as best you presently now recall, the conversation between the Court and yourself, or any other person who was up at that bench conference?

A I requested of Judge Martin to allow the homicide officers----

MR. RAPPAPORT: Objection. I thought you just asked whether anybody else was present.

MR. BEAUCHESNE: I did. Do you want me to do it again?

MR. RAPPAPORT: I didn't think that question was answered. Maybe I'm wrong.

MR. BEAUCHESNE: It was.

MR. RAPPAPORT: I withdraw the objection, then.

MR. BEAUCHESNE: Just to clarify the situation for counsel, I believe the question was -- I asked him to repeat the entire conversation between the Court, himself, and any other person at the bench conference.

MR. RAPPAPORT: I'm sorry. I withdraw the objection.

II-6

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2 THE COURT: You requested. Right? That's
3 what you said?

4 THE WITNESS: Yes, your Honor.

5 THE COURT: You requested what?

6 THE WITNESS: I requested that the Judge
7 allow the officers from Homicide to take Mr. Drumgold
8 for booking, for booking process. Judge Martin said
9 to me could I have him back by 2:30. I said that would
10 be impossible. He said: Well, I want him back here
11 by 3:30 at the latest.

12 BY MR. BEAUCHESNE:

13 Q What happened then? What was the next thing that
14 was said or done?

15 A The detectives then left.

16 Q When you say the detectives, that's the Homicide
17 detectives?

18 A The Homicide detectives then left. I left. I
19 was leaving, and then the Judge called me back,
20 to the best of my recollection.

21 Q Now, after he called you back was there any other
22 person up at the bench with you and the Judge at
23 that time?

24 A There might have been a court officer. It was
25 a long time ago. There might have been a court

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officer. I'm not sure, but----

Q Tell us any further conversation that was had between you and the Judge?

A The Judge said, "You're not going to question him, are you?" -- talking to me.

Q Yes?

A And I said, "No, I'm not."

Q Was there any further question -- any further discussion?

A No, there wasn't.

Q Now, at any time after you left -- I presume you left the courtroom at that time?

A Yes, I did.

Q After you left the courtroom did you have any further communications with either Officer Paul Murphy or Officer Walsh from the Homicide Unit that day?

A No, I did not.

Q So, you didn't communicate with him in any way?

A Not in any way.

Q And----

MR. BEAUCHESNE: May I have just one moment, please?

(Pause.)

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THE COURT: The answer may stand.

You infer that it had.

BY MR. RAPPAPORT:

Q You had a conversation with Judge Martin -- and
this is approximately what time?

A I don't know. I know it was in the afternoon.

Q One o'clock?

A Could have been.

Q Well, it was certainly before he was actually
brought over to the police station and processed
in any way that you processed him.

Correct?

A Yes.

Q So, assume for purposes of this discussion, sir,
that there's a document in evidence which indicates
that Mr. Drumgold was over at Area B that afternoon
by 1:15. Just assume that for the purposes of
this question.

A Okay.

Q Therefore, your conversation with Judge Martin
occurred some time before 1:15.

Correct?

A Yes.

Q Now, was it your understanding that Mr. Drumgold

II-28

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the bench. I remember --- I left with them, and

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I think I was called back.

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Q Okay. You're called back, and you have a distinct

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memory of returning alone to the area where Judge

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Martin was?

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A Yes.

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Q So Detective Murphy was no longer with you?

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A No, he wasn't.

10

Q And at this point you say Judge Martin now, for

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the first time, said something with regard to

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interrogation?

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A Yes.

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Q And he said to you: You're not going to interrogate
him, are you?

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A He said: You're not going to question him, are
you? I believe that's what he said. That was a
long time ago. I believe that's what he said.

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Q And your response was: Hey, I'm not; or I'm not?

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A I said: No, I'm not, your Honor.

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Q Now, when you said: No, I'm not, your Honor, did

22

you mean that: No, I -- Deputy Superintendent

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William Celester -- am not going to, or---

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A Yes, that's what I meant.

25

Q Or the Boston Police are not going to?

II-29

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A No. I said: No, I'm not.

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Q So you were only speaking for yourself?

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A That's correct.

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Q You were there, sir -- you were aware when you

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were called before the Court that he wanted a

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ranking official of the Boston Police

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Department?

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A Yes.

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Q To talk about this Drumgold matter. Correct?

11

A Yes. Yes.

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Q And, sir, didn't you think, or didn't it dawn

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on you at that particular time that he wanted

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a ranking official who would be acting in his

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official, as opposed to personal, capacity?

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A Yes.

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Q So, when you responded to the Court, you were

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responding in your official capacity as a

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ranking official of the Boston Police Department,

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or as William Celester, when you said: No, I'm

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not?

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A As a ranking official of the Boston Police

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Department.

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Q Having made that representation to the Court,

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as a ranking official of the Boston Police

II-30

1 Department, you did not in any way indicate to
2 subordinate officers the representation you had
3 just made?
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5 A I don't -- what do you mean "the representation
6 I just made"?

7 Q Well, you -- as a ranking official of the Boston
8 Police Department -- had just represented to the
9 Court that you would not be questioning Mr.
10 Drumgold?

11 A Yes.

12 Q Did you communicate that to any of your subordinate
13 officers?

14 A No, I did not.

15 Q Or any other Boston police officers?

16 A No, I did not.

17 THE COURT: Now, sir, I take it -- I
18 mean this is from my own ignorance, from being a PFC
19 in the Army of the United States -- that if you're a
20 Deputy Superintendent that you're essentially a division
21 commander, are you not?

22 THE WITNESS: An area commander. Yes.

23 THE COURT: So at least you're like a
24 battalion commander, aren't you?

25 THE WITNESS: Thank you.

II-31

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2 THE COURT: Probably even more than that,
3 like a division commander. Right?

4 THE WITNESS: Yes.

5 THE COURT: And as a division commander
6 when folks come into your sector you have command
7 authority over these people, don't you?

8 THE WITNESS: Yes, I do.

9 THE COURT: So, it was within your power,
10 was it not, to issue an order to Detective Murphy that
11 he was not to interrogate Drumgold, wasn't it?

12 THE WITNESS: It was in my power. Yes,
13 it was, your Honor.

14 THE COURT: Thank you, sir.

15 BY MR. RAPPAPORT:

16 Q Sir, if it was impossible to do that type of identi-
17 fication procedure that you were requesting Mr.
18 Drumgold's body for -- if it was impossible to do
19 that at Area B, why wasn't Mr. Drumgold brought
20 downtown initially?

21 A I can't answer that.

22 MR. RAPPAPORT: I have no further questions.

23 MR. BEAUCHESNE: If I may, just briefly,
24 your Honor.

25 THE COURT: Certainly.